

Regular Session, 2009

SENATE BILL NO. 345

BY SENATOR CROWE

TAX/INCOME/CORPORATE. Grants a tax credit of \$10 per ton to taxpayers who import breakbulk cargo or containerized cargo from a foreign country to a facility in the state or export such cargo from such facility to a foreign country through a Louisiana public port.  
(gov sig)

AN ACT

To enact R.S. 47:6035, relative to tax credits; to provide tax credits for certain cargo imported or exported in a certain manner through Louisiana ports; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6035 is hereby enacted to read as follows:

**§6035. Tax credit for the import and export of breakbulk and containerized cargo via Louisiana ports**

**A. Intent. There is hereby established the International Business Incentive Tax Credit Program, hereinafter referred to as the "program," to provide for tax credits for international business entities in order to assist in the retention and expansion of existing Louisiana businesses that utilize a public port facility for the import and export of their cargo to or from distribution, manufacturing, fabrication, assembly, processing, or warehousing sites in Louisiana.**

**B. Definitions. For purposes of this Section, the following terms shall have the meanings as described herein:**

1           (1)(a) "Breakbulk cargo" shall mean machinery, equipment, materials,  
2           products or commodities, including but not limited to, palletized or unpalletized  
3           bagged, packaged, wrapped, drummed, baled or crated goods and commodities.

4           Breakbulk cargo shall also mean offshore drilling platforms and equipment.

5           (b) Breakbulk cargo shall not include any liquid or dry commodities that  
6           are handled in bulk.

7           (2) "Containerized cargo" shall mean any machinery, equipment,  
8           materials, products, or commodities shipped in a container used for the  
9           transport of cargo, including but not limited to containers which are rigid,  
10          sealed, reusable metal boxes in which merchandise is shipped by vessel, truck,  
11          or rail.

12          (3) "International business entity" shall mean a taxpayer corporation,  
13          partnership, LLC, or other commercial entity, all or a portion of whose  
14          activities involve the import or export of qualified cargo.

15          (4) "Oceangoing vessel" shall mean any vessel, ship, barge, or water  
16          craft that floats, including offshore oil exploration platforms.

17          (5) "Public port" shall mean any deep-water port commission or port,  
18          harbor and terminal district as defined in Article VI, Section 44 of the  
19          Constitution of Louisiana, and any other port, harbor and terminal district  
20          established under Title 34 of the Louisiana Revised Statutes of 1950.

21          (6) "Qualified cargo" shall mean any breakbulk cargo or containerized  
22          cargo owned by an international business which is imported to or exported from  
23          a manufacturing, fabrication, assembly, distribution, processing or warehouse  
24          facility located in Louisiana.

25          (7) "Secretary" means the secretary of the Department of Economic  
26          Development.

27          (8) "Ton" shall be a net ton of 2,000 pounds and in the case of  
28          containerized cargo it shall exclude the weight of the container.

29          C.(1)(a) For tax years beginning on and after January 1, 2009, there

1 shall be allowed a credit against income and corporation franchise tax liability  
2 of an international business entity which has received certification pursuant to  
3 Subsection D of this Section.

4 (b)(i) The amount of the credit for a tax year shall be equal to the  
5 product of ten dollars multiplied by the number of tons of qualified cargo that  
6 the international business entity imported from a foreign country on and  
7 unloaded from, or loaded on and exported to a foreign country on, an  
8 oceangoing vessel which was berthed at a public port facility, during the tax  
9 year.

10 (ii) In the event that the tax credits allowed pursuant to this Subsection  
11 exceed the total tax liability of the taxpayer in the taxable year, the amount of  
12 the credit not used as an offset against such tax liability may be carried forward  
13 as a credit against subsequent individual and corporation income, or  
14 corporation franchise tax liabilities for a period not to exceed five taxable years.

15 D. Certification of taxpayer.(1) Only those international business entities  
16 which have received certification from the secretary, shall be eligible for the tax  
17 credits provided for in this Section. The secretary shall promulgate rules and  
18 regulations in accordance with the Administrative Procedure Act which  
19 establish the process by which an international business entity shall apply for  
20 certification. Such rules and regulations shall include a requirement that the  
21 international business entity provide to the secretary a verified statement of  
22 qualified cargo volume data for the international business entity's tax year prior  
23 to the year of the application.

24 (2) In no event, however, shall an applicant be certified if its exports and  
25 imports are limited to any liquid or dry commodities that are handled in bulk.

26 (3) The secretary shall provide a statement of certification to each  
27 international business entity which he has certified as eligible to take the tax  
28 credit. The secretary shall also transmit a copy of such statement to the  
29 secretary of the Department of Revenue.

1                   **E. The secretary and the secretary of the Department of Revenue are**  
2                   **authorized to promulgate rules and regulations as may be necessary to**  
3                   **administer the provisions of this Section.**

4                   Section 2. This Act shall become effective upon signature by the governor or, if not  
5                   signed by the governor, upon expiration of the time for bills to become law without signature  
6                   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
7                   vetoed by the governor and subsequently approved by the legislature, this Act shall become  
8                   effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Proposed law grants an income and corporation franchise tax credit to an "international business entity" for a tax year in the amount of \$10 multiplied by the number of tons of "qualified cargo" that the international business entity imported from a foreign country on exported to a foreign country on an oceangoing vessel which was berthed at a public port facility during the tax year. The credit may be carried forward for 5 years.

"Qualified cargo" is defined as any "breakbulk cargo" or "containerized cargo" owned by an international business which is imported to or exported from a manufacturing, fabrication, assembly, distribution, processing or warehouse facility located in Louisiana.

"Breakbulk cargo" is defined as machinery, equipment, materials, products or commodities, including but not limited to, palletized or unpalletized bagged, packaged, wrapped, drummed, baled or crated goods and commodities. "Breakbulk cargo" also means offshore drilling platforms and equipment. However, it does not include any liquid or dry commodities that are handled in bulk.

"Containerized cargo" is defined as any machinery, equipment, materials, products, or commodities shipped in a container used for the transport of cargo, including but not limited to containers which are rigid, sealed, reusable metal boxes in which merchandise is shipped by vessel, truck, or rail.

"International business entity" is defined as a taxpayer corporation, partnership, LLC, or other commercial entity, all or a portion of whose activities involve the import or export of qualified cargo.

Proposed law limits the tax credit to only those international business entities which have received certification from the secretary of DED and requires the secretary to promulgate rules and regulations in accordance with the APA to provide for a process by which such entities apply for certification. Prohibits an applicant from being certified if its exports and imports are limited to any liquid or dry commodities that are handled in bulk.

Proposed law authorizes the secretary of DED and the secretary of the Department of Revenue to promulgate rules and regulations as may be necessary to administer the proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:6035)